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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:	§	Chapter 11
	§	Case No. 19-34054-SGJ-11
HIGHLAND CAPITAL MANAGEMENT,	§	
L.P.,	§	
	§	
Debtor.	§	
HIGHLAND CAPITAL MANAGEMENT,	§	
L.P.,	§	
	§	
Movant,	§	
	§	Contested Matter
v.	§	
	§	
NEXPOINT REAL ESTATE PARTNERS,	§	
LLC, F/K/A HCRE PARTNERS, LLC,	§	
	§	
Respondent.	§	
	§	
	§	

**JOINT AGREED MOTION FOR ORDER APPROVING STIPULATION  
TO PAY JUDGMENT INTO THE REGISTRY OF THE COURT AND STAY  
EXECUTION PENDING APPEAL**

COME NOW plaintiff Highland Capital Management, L.P. (“HCMLP” or “Plaintiff”), and defendant NexPoint Real Estate Partners, LLC (f/k/a HCRE Partners, LLC) (“NREP”) (Plaintiff and Defendant are collectively referred to as the “Parties”), through the undersigned counsel, and hereby submit their *Joint Agreed Motion for Order Approving Stipulation to Pay Judgment into the Registry of the Court and Stay of Execution Pending Appeal* (the “Agreed Motion”), and would show the Court as follows:

**I. BACKGROUND**

1. On October 16, 2019, Highland Capital Management, L.P. (then in its capacity as a debtor) filed a Chapter 11 petition in the United States Bankruptcy Court for the District of Delaware, Case No. 19-12230-CSS. On December 4, 2019, the Delaware Bankruptcy Court transferred the case to the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”).

2. On April 8, 2020, NREP filed its Proof of Claim #146 (the “POC”). On July 30, 2020, HCMLP filed a First Omnibus Objection to Certain (A) Duplicate Claims; (B) Overstated Claims; (C) Late-Filed Claims; (D) Satisfied Claims; (E) No-Liability Claims; and (F) Insufficient-Documentation Claims (“Omnibus Objection”), in which HCMLP objected to NREP’s POC. Dkt. 906. On October 19, 2020, NREP filed a response to Highland’s Omnibus Objection. Dkt. 1212.

3. On August 12, 2022, NREP filed a Motion to Withdraw its Proof of Claim. Highland opposed the motion to withdraw, and the Bankruptcy Court held a hearing on the motion on September 12, 2022. Dkt. 3511. The Bankruptcy Court denied the Motion to Withdraw on September 15, 2022. Dkt. 3518.

4. Thereafter, the Bankruptcy Court held a trial on the merits of the POC on November

1, 2022. On April 28, 2023, the Court issued a Memorandum Opinion and Order Sustaining Debtor's Objection to and Disallowing Proof of Claim Number 146. Dkt. 3767.

5. Following the Bankruptcy Court's order, Highland filed a Motion for (A) Bad Faith Finding and (B) Attorneys' Fees Against NexPoint Real Estate Partners LLC (f/k/a HCRE Partners, LLC) in Connection with Proof of Claim # 146 ("Bad Faith Motion"). Dkt. 3851.

6. After briefing and a hearing, the Bankruptcy Court issued an order granting the Bad Faith Motion on March 5, 2024. Dkt. 4039. That order (the "Sanctions Order") awarded Highland sanctions in the amount of \$825,940.55.

7. On April 18, 2024, NREP filed a Motion for Relief from Order seeking reconsideration of the Bankruptcy Court's Sanctions Order. Dkts. 4040 and 4041. The Court denied NREP's motion on May 21, 2024. Dkt. 4069.

8. NREP filed its notice of appeal of the Bankruptcy Court's Sanctions Order on March 18, 2024. Dkt. 4042. Subsequently, NREP amended its notice of appeal on June 4, 2024. Dkt. 4074. That appeal is currently pending before the United States District Court for the Northern District of Texas.

9. The Parties have now agreed, subject to the Court's approval, to a stay of execution of the Sanctions Order pending appeal, on the terms and conditions set forth in the stipulation attached as Exhibit A (the "Stipulation").

## **II. RELIEF REQUESTED**

10. Consistent with the background described above, the Parties now ask the Bankruptcy Court to enter an order:

- a. approving the Stipulation;
- b. staying execution of the Sanctions Order until the Sanctions Order becomes final and no longer subject to further appeal; and

- c. approving the payment by NREP of the full amount of the sanctions award, plus post-judgment interest as provided for in the Stipulation, into the Registry of the Court pending the entry of a final, non-appealable order resolving the Sanctions Order.

### III. PRAYER

WHEREFORE, the Parties respectfully request that the Court enter an order granting the requested relief.

Dated: August 22, 2024

Respectfully Submitted,

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FELDBERG LLP

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*Attorneys for Highland Capital Management, L.P.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 22, 2024, a true and correct copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/ Amy L. Ruhland

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